

Response to Arguments

1. Applicant's arguments filed March 26th, 2008 have been fully considered but they are not persuasive.

Applicant's arguments (see Remarks, page 9), stating that, "No connection between a controller configured to instruct a servo to move to tracks containing a video segment and counting how many times the video segment is played is suggested by Knight" have been noted. Examiner respectfully disagrees. For instance, in order to provide for a random access, there has to be a tracking mechanism to move the optical head to a desired track. Furthermore, Knight teaches a tracking servo for tracking the beam onto the storage medium at a desired location (see column 2, lines 3-9, and column 21, lines 10-15). Therefore Knight teaches the step of the controller instructing a servo to move to tracks of a multilayer containing video segments to be viewed (see column 58, lines 41-60).

Applicant argues (see Remarks pages 9-10) that Korn fails to teach that "micro computer 164 is a controller configured to instruct a servo to move to tracks of a multilayer storage medium having a plurality of video segments stored thereon" because "a count is incremented when a music selection is queued, not when controller instructs a servo to move to tracks of a multilayer storage medium". Examiner respectfully disagrees. Claim 42 for instance recites, "said counting enabled via a controller of the reader device, wherein said controller is configured to instruct a servo to move to tracks of the said multilayer storage medium containing video segments to be viewed". Therefore the claim language indicates that counting

is enabled only via the controller and that even though the controller instructs the servo to move to tracks, it can be seen that the counting need not be enabled via a servo moving tracks. Moreover, Korn clearly states (see column 2, lines 60-62) that, "the control means may store....*a count of the number of times each selection has been played*", thus reading on the claimed element, "said counting enabled via a controller of the reader device".

Applicant argues (see Remarks page 11) that Braitberg, "does not describe a reader device also transmitting a second unique identifier to the central computer". Examiner respectfully disagrees. Braitberg discloses the step of transmitting a plurality of information comprising a unique identifier (see page 13, lines 1-6) order to obtain authorization to play content from that disk, thereby allowing access to only a subset of content on a disk as well as unauthorized access of media content when disks have been reproduced. The system as modified in view of Braitberg therefore would comprise the step of transmitting a plurality of information comprising a second unique identifier with the first unique identifier (i.e. address) of the reader device so that the central computer can transmit the access code at the addressable reader device at which content maybe viewed.

For the reasons stated above, the rejection is maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 42-50, 52-53, 27, 61-66, 71-75, 78, 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) and further in view of Korn et al. (US Pat. 4,766,581).

In regards to claims 42, 61 and 71, Russo discloses a method in a video distribution system comprising

Reading a portable storage medium with a reader device (record/play controller 10), the portable storage medium having a plurality of video segments stored thereon (see Russo: column 7, lines 40-51);

Tracking with the reader device which and how many times a video segment of the plurality of video segments is played (i.e. pay per play) using characteristics of the physical format (Russo: column 3, lines 20-24, column 5, lines 52-59, column 6, lines 33-36, column 7, lines 53-55, column 10, lines 23-29 and 32-34). Russo teaches that the system may store all viewing requests of a program that is transmitted periodically to the provider to determine billing information. A movie is "charged for" once the user has selected a movie for play and once the viewer has watched a substantial portion of the movie. See column 5, lines 22-26 and column 10, lines 39-43.

Russo does not teach multilayer storage medium, wherein the reader device instructs a servo to move to tracks of the multilayer storage medium and further

lacks the step of counting how many times a video segment of the plurality of the video segments is played, the counting enabled via the reader device instructing servo to move to tracks of the storage medium containing the segments to be viewed.

Knight discloses the step of using multilayer storage medium to increase the capacity of storage mediums (Knight: column 3, lines 60-62, column 42, lines 34-39, column 58, lines 44-46, lines 57-59) for the purpose of distributing a high capacity disk with a plurality of movies recorded thereon. Knight further teaches a tracking servo for tracking the beam onto the storage medium at a desired location of the multilayer storage medium for reading the tracks. See column 2, lines 3-9, and column 21, lines 10-15.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Knight by further increasing the capacity of a storage medium by using a multilayer storage medium, thereby allowing additional movies to be recorded on a single disk. The modified system would further comprise the step of a reader device instructing a servo to move to tracks of the storage medium, as taught by Knight, for reading the data associated playback request, wherein upon reading the data (i.e. decoding and viewing the movie), tracking when a viewer is charged for the movie.

While the modified system discloses the step of a controller instructing a servo to move to tracks containing requested video signal (as taught by Knight column 2, lines 3-9, and column 21, lines 10-15), and tracking what clips are played by the

user for charging accordingly (as taught by Knight, column 58, lines 40-60 and Russo column 5, lines 22-26 and column 10, lines 39-43), the modified system fails to explicitly teach the step of counting the number of times a video segment of the plurality of video segment is played, wherein the counting enabled via a controller of the reading device".

In a similar field of endeavor, Korn teaches a method of tracking counts for requested video program selections. See column 2, lines 60-62. Korn is therefore evidence to one of ordinary skill in the art of counting the number of times a video segment is played/requested, the counting enabled via a controller of the media reader device. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system of Russo and Knight in view of Korn's teachings by to tracking the number of times a segment has been played in order to ensure that multiple viewings an entire movie is charged. Such a modified figure counts how many times a video segment is played, wherein the counting is enabled by instructing the servo to move to tracks of the storage medium containing the video segments to be viewed.

In regards to claim 43, the multilayer storage medium has multiple feature length movies stored thereon (Knight: column 58, lines 57-59).

In regards to claim 44, the system does not disclose providing at least one viewer with at least one multilayer storage medium comprises distributing multiple multilayer storage mediums to at least one viewer on a periodic basis. Examiner takes official notice that it is well known for new movies to be released from time to time.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to periodically distribute the new releases multilayer storage medium, in order to make the new releases available to the users thereby generating additional revenue from the new releases.

In regards to claim 45 and 82, the multilayer storage medium is an optical disk that has the storage capacity of approximately 20 gigabytes of information (Knight: column 29, lines 51-53, lines 61-63).

In regards to claim 46, 62, 73, the system comprises the step of tracking how many times each of the plurality of video segments is played. See Russo: column 5, lines 52-59.

In regards to claim 47, the system comprises the step of providing at least on multilayer storage medium comprises providing a mechanism for the viewer to order a selected multilayer storage medium of multiple classic/older movie multilayer storage mediums (Russo: column 9, lines 63-65).

In regards to claims 48, 64 and 72, the multilayer storage medium was recorded using near field disk recording for increasing areal density and thereby increasing the track density (Knight: column 5, lines 12-18).

In regards to claim 49, the multiple video segments are encrypted (Russo: column 6, lines 9-21)

In regards to claims 50, 65 and 74 the reader device has a first unique identifier since provider broadcasts an access code specifically addressed to the subscriber decoder. See Russo: column 6, lines 12-15.

In regards to claims 52 and 66, information is transmitted between the reader device and a central computer (Russo: column 6, lines 28-40)

In regards to claims 53, and 75, the transmitting step further comprises reader device transmitting the first unique identifier to the central computer (i.e. for purposes of billing and receiving authorization. Russo: column 6, lines 12-15, 28-40).

In regard to claim 57, when each reader device transmits its first identifier to the central computer, the reader device also transmits to the central computer data identifying at least one movie that has been played on the reader device (Russo: column 3, lines 20-24, column 7, lines 48-49, lines 53-55).

In regards to claim 78, when the central computer sends the code to the reader device, the central computer also sends the reader device instructions for an amount of available credit that the reader device can draw upon (Russo: column 5, lines 59-61, column 6, lines 18-27, column 10 lines 43-48).

In regards to claim 63, the distribution network provides a mechanism for the viewer to order a select one of second group of multilayer storage mediums having the classic/older movies (i.e. by category; Russo: column 9, lines 63-65, column 7, lines 48-51).

The distribution network does not distribute at least one multilayer storage medium having new release movie to the viewer on a periodic basis.

Examiner takes official notice that it is well known for new movies to be released from time to time. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to periodically distribute the new releases multilayer storage medium, in order to make the new releases available to the users thereby generating additional revenue from the new releases.

4. Claims 54-56, 59-60, 67-68, 70, 76, 79, 80, 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350), and Korn et al. (US Pat. 4,766,581) and further in view of Braitberg (WO 01/54410 A2).

In regards to claim 54, as discussed above in claim 53, Russo discloses the step of transmitting a first identifier for the reader device while requesting access to content, wherein the program access code is then addressed to the reader device (see column 6, lines 12-15 and lines 32-40). The system remains silent on the reader device also transmitting a second unique identifier to the central computer.

In an analogous art, Braitberg discloses the step of transmitting additional unique identifiers order to obtain authorization to play content from that disk, thereby allowing access to only a subset of content on a disk as well as unauthorized access of media content when disks have been reproduced (Braitberg: page 5, lines 4-10, page 8, lines 33-34, and page 13, lines 1-6).

It would have been obvious to one of ordinary skill in the art at the time to modify the system to transmitting a second unique identifier as taught by Braitberg identifying the subset of content on a digital movie disk, in order to receive access to the content for that disk. The motivation is to ensure that payment is made for viewing content in the even a disk has been copied. Such a second unique identifier in the modified system would be transmitted with the first unique identifier (i.e. address) of the reader device so that an enablement facility can to identify the reader device to which access code is to be provided to.

In regards to claim 55, when the central computer receives the first and second identifiers from the reader device, the central computer creates a digital rights management code (i.e. content enablement key) and sends the code to the reader device (Braitberg: page 13, lines 1-12).

In regards to claim 56, 68, when the central computer sends the code to the reader device, the central computer also sends the reader device instructions for an amount of available credit that the reader device can draw upon (Russo: column 5, lines 59-61, column 6, lines 18-27, column 10 lines 43-48).

In regards to claims 67, and 76, see claims 54 and 55.

In regards to claims 70 and 79, the system does not comprise a first table that lists standard pricing rules for a first category of movies and a second table that lists exception-pricing rules for a second category of movies.

Braitberg discloses the step of establishing pricing structures for content based on enablement or non-enablement of advertisements. Thus, content with advertisements enabled (i.e. the first category of content) have a first set of "standard" pricing rules and content with advertisements with non-enablement have a second set of "exception" (i.e. a premium type subscription) pricing rules (second category of content). The movies therefore have two pricing modes for all movies (i.e. standard and exception) based on enablement of advertisements (Braitberg: page 5, lines 27-page 6, lines 2, page 10, lines 21-28).

It would have been obvious to one of ordinary skill in the art to modify the system to provide customer with a first category of movies with a first standard pricing rule and a second category of movies with a second exception pricing rules in order to provide the customer with flexible, variable pricing scheme for movies.

In regards to claims 59-60, 79, and 81, see claim 70.

In regards to claim 80, the system computer comprises means for changing pricing rules (for obtaining additional access privileges) listed in the first and second tables (Braitberg: page 6, lines 20-22).

5. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) and Korn et al. (US Pat. 4,766,581) as applied to claim 50 above, and further in view of Goode et al. (US Pre Grant Pub. 2004/0083492)

In regards to claim 51, the system lacks the step of providing a mechanism for the viewer to select the unique identifier for the reader device.

Goode discloses a system where a subscriber selects a personal identification number in order identify a user from a household of plurality of users while establishing a communication with the provider (Goode: [0041])

It would have been obvious to one of ordinary skill in the art to modify the system by including the step of a customer selecting a PIN in addition to the terminal identification number, in order to identify the services and privileges that the subscriber is permitted to access.

6. Claims 58 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350) and Korn et al. (US Pat. 4,766,581) as applied to claims 57 and 71 above, and further in view of Voyticky (US Pat. 6,438,751)

In regards to claims 58 and 77, the system does not comprise the step of when the reader device transmits its first identifier to the central computer, the reader device also transmitting to the central computer information identifying dates and times the movies have been played on the reader device.

Voyticky teaches the step of time-stamping the playback of an event and sending the time stamp information to the provider so that the head end can track the time an event was watched at (Voyticky: figures 6, 7 and abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system to include time stamps (i.e. time and date) in order to allow the system controller to determine when an event was watched.

7. Claim 69 rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US Pat. 5,619,247) in view of Knight et al. (US Pat. 6,243,350), Korn et al. (US Pat. 4,766,581) and Braitberg (WO 01/54410 A2) as applied to claim 67 above, and further in view of Voyticky (US Pat. 6,438,751).

In regards to claims 69 the system does not comprise the step of when the reader device transmits its first identifier to the central computer, the reader device also transmits to the central computer information identifying dates and times the movies have been played on the reader device.

Voyticky teaches the step of time-stamping the playback of an event and sending the time stamp information to the provider so that the head end can track the time an event was watched at (Voyticky: figures 6, 7 and abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system to include time stamps (i.e. time and date) in order to allow the system controller to determine when an event was watched.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
Unit 2623

UR